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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Statement of Issues
Against:

Case No. 2010-118

14 **LINDSEY MARIE CUESTA**
15 **60632 La Mirada Tr.**
16 **Joshua Tree, CA 92252**

STATEMENT OF ISSUES

17 Applicant/Respondent.

18
19 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Statement of Issues solely in her official capacity as the
22 Interim Executive Officer of the Board of Registered Nursing ("Board"), Department of
23 Consumer Affairs.

24 **License History**

25 2. On or about March 20, 2009, the Board received an Application for Licensure by
26 Examination from Lindsey Marie Cuesta ("Respondent"). On or about March 18, 2009,
27 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Board denied the application on April 14, 2009.

STATUTORY PROVISIONS

3. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

4) Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3)(A) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(3)(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

5. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Section 2762 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any

1 dangerous drug or dangerous device as defined in Section 4022, or
2 alcoholic beverages, to an extent or in a manner dangerous or injurious to
3 himself or herself, any other person, or the public or the extent that such
4 use impairs his or her ability to conduct with safety to the public the
5 practice authorized by his or her license.

6 (c) Be convicted of a criminal offense involving the prescription,
7 consumption, or self administration of any of the substances described in
8 subdivisions (a) and (b) of this section, or the possession of, or
9 falsification of a record pertaining to, the substances described in
10 subdivision (a) of this section, in which event the record of the conviction
11 is conclusive evidence thereof.

12 **FIRST CAUSE FOR DENIAL OF APPLICATION**

13 **(Criminal Convictions)**

14 7. Respondent's application is subject to denial under Code sections 2761,
15 subdivision (f), and 480, subdivision (a)(1), in that Respondent was convicted of crimes
16 substantially related to the qualifications, functions and duties of registered nurse, as follows:

17 a. On or about January 7, 2005, in the Superior Court of California, County of San
18 Bernardino, in the case entitled, *People of the State of California v. Lindsey Marie Cuesta* (Super
19 Ct. San Bernardino County, 2004, Case No. TMB024072), Respondent was convicted on her plea
20 of guilty of violating Vehicle Code sections 23152, subdivision (A) (Driving While Under the
21 Influence of an Alcoholic Beverage and/or Drug) and 23152, subdivision (B) (Driving While
22 Under the Influence of Alcohol with .08% or Higher Blood Alcohol Content).

23 b. On or about March 9, 2005, in the Superior Court of California, County of
24 Riverside, in the case entitled, *People of the State of California v. Lindsey Marie Cuesta* (Super
25 Ct. Riverside County, 2005, Case No. INM154554), Respondent was convicted on her plea of
26 guilty of violating Vehicle Code sections 23152, subdivision (A) (Driving While Under the
27 Influence of an Alcoholic Beverage and/or Drug), a misdemeanor. The circumstances of the
28 crime are that on January 21, 2005, Respondent did willfully and unlawfully drive a motor
vehicle with a concentration of alcohol in her blood of .18/.19 percent or more by weight.

c. On or about September 12, 2007, in the Superior Court of California, County of
San Bernardino, in the case entitled, *People of the State of California v. Lindsey Marie Cuesta*
(Super Ct. San Bernardino County, 2007, Case No. TMB700276), Respondent was convicted on

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1 her plea of guilty of violating Vehicle Code section 23152, subdivision (B) (Driving While
2 Under the Influence of Alcohol with .08% or Higher Blood Alcohol Content).

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Done any Acts if Committed by a Licentiate)**

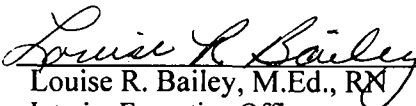
5 8. Respondent's application is subject to denial under Code section 480, subdivision
6 (3)(A), in that she committed acts that if one by a licentiate of the business or profession, would
7 be grounds for suspension or revocation of a license, pursuant to Code sections 2761, subdivision
8 (a) and 2762, subdivisions (b) and (c), as set forth in paragraph 7, above.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board of Registered Nursing issue a decision:

- 12 1. Denying the application of Lindsey Marie Cuesta for a Registered Nurse License;
13 and,
14 2. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 9/10/09


Louise R. Bailey, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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